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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,454	06/12/2001	Richard Timothy Hartshorn	CM1913F	2212

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THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
WINTON HILL TECHNICAL CENTER - BOX 161  
6110 CENTER HILL AVENUE  
CINCINNATI, OH 45224

EXAMINER

BOYER, CHARLES I

ART UNIT	PAPER NUMBER
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1751

19

DATE MAILED: 04/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
**09/787,454**

Applicant(s)  
**Hartshorn et al**

Examiner  
**Charles Boyer**

Art Unit  
**1751**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Dec 23, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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### **DETAILED ACTION**

This action is responsive to applicants' amendment and response received December 23, 2002. Claims 1-9 are currently pending.

1. Claim 1 is provisionally rejected under the judicially created doctrine of double patenting over claim 9 of copending Application No. 09/787448. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: The "degree of mixture" limitation is identically claimed in each application.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

### ***Response to Amendment***

2. The amendment filed December 23, 2002 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall

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introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The "free of additional silicate" limitation is not found in the specification.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. While applicant may be his or her own lexicographer, a term in a claim may not be given a meaning repugnant to the usual meaning of that term. See *In re Hill*, 161 F.2d 367, 73 USPQ 482 (CCPA 1947). The term "components" in claim 1 is used by the claim to mean "separate regions or a mixture of compositions containing different components," while the accepted meaning is "a constituent part."

Applicants have traversed this rejection on the grounds that the "component" of the present claims is meant to refer to "an ingredient or part of the detergent composition of the present invention." (See page 3, paragraph 4 of applicants' arguments). If this is the case, it

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obviates the 112 rejection, however, applicants should be aware that such a definition allows for any detergent that contains at least 5% zeolite and 5% anionic surfactant to anticipate the present claims. Applicants appear to confirm that component (i), as claimed, may be any area of the composition. If "component" is defined as merely an ingredient, then any composition, even a homogeneous mixture containing zeolite and anionic surfactant, in say, a detergent powder, will have a degree of mixture (M) equal to zero. Accordingly, the examiner reiterates there must be at least scores of references which meet this limitation.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

7. Claims 1-3, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Harris et al, US 4,321,157.

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Harris et al teach granular laundry detergent compositions (see abstract). An example of such a composition is a granular detergent prepared by spraying liquid ingredients onto the solid ingredients (meets the “components” limitation of the present claims). The composition comprises 5% alkylbenzene sulfonate, 53% zeolite, and 22% TAED (col. 21, example IV). Note that  $M = 0$  in this example. Further note the particulate mixture has an average particle size of from  $250\mu\text{m}$  to  $3000\mu\text{m}$  (col. 2, lines 58-61). As this reference exemplifies all material limitations of the claims at hand, the reference is anticipatory.

Applicants have traversed this rejection on the grounds that Harris et al do not teach crystalline aluminosilicates and compositions free of additional silicate. The examiner notes that example IV does not contain additional silicate and zeolite A is inherently a crystalline aluminosilicate. Accordingly, the rejection is maintained.

8. The rejection of claims 1, 2, and 6 under 35 U.S.C. 102(b) as being anticipated by Cheng, US 4,414,130 is withdrawn for the present, but will be reinstated upon cancellation of new matter.

9. Claims 1-6, 8, and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Donoghue et al, WO 98/01520.

Donoghue et al teach detergent agglomerates comprising a mixture of particles (see abstract). An example of such a composition comprises intermediate particles containing zeolite

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and an anionic surfactant particle containing zeolite (meets the “components” limitation of the present claims). The detergent comprises 8.8% anionic and 19.6% zeolite (page 12, example 1). Note that  $M = 0.58$  in this example. As this reference exemplifies all material limitations of the claims at hand, the reference is anticipatory.

Applicants have traversed this rejection on the grounds that Donoghue et al do not teach crystalline aluminosilicates and compositions free of additional silicate. The examiner notes that example 1 does not contain additional silicate and zeolite A is inherently a crystalline aluminosilicate. Accordingly, the rejection is maintained.

10. Claims 1, 2, and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Boyer et al, US 4,265,777.

Boyer et al teach aluminosilicate detergent compositions (see abstract). An example of such a composition comprises 7% sodium paraffin sulfonate and 25% zeolite X (col. 10, example V). Note that  $M = 0$  in this example. As this reference exemplifies all material limitations of the claims at hand, the reference is anticipatory.

11. Claims 1, 2, and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Fleming et al, US 4,000,094.

Fleming et al teach a spray-dried detergent composition (see abstract). An example of such a composition comprises 6% sodium alkyl sulfate and 54% sodium aluminosilicate (col. 5,

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example 1). Note that  $M = 0$  in this example. As this reference exemplifies all material limitations of the claims at hand, the reference is anticipatory.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Donoghue et al, WO 98/01520 in view of Cheng, US 4,414,130.

Donoghue et al are relied upon as set forth above. Donoghue et al do not specifically teach an effervescent system. Cheng teaches readily disintegrable agglomerate detergent compositions (see abstract). An example of such a composition contains zeolite in agglomerate particles and LAS in separate beads (meets the "components" limitation of the present claims). The detergent comprises 20% LAS and 25% zeolite (col. 20, example 6). Note that  $M = 0$  in this example. Note that effervescent materials or mixtures may be added to these compositions as dispersing aids (col. 5, lines 43-52). It would have been obvious to one of ordinary skill in the art to include an effervescent system in the composition of Donoghue et al as such dispersants are taught as suitable for detergent agglomerates by Cheng et al.



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Applicants have traversed this rejection for the same reasons stated above and the examiner's response is the same.

***Conclusion***

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Boyer whose telephone number is (703) 308-2524. The examiner can normally be reached on Monday-Friday from 8:30 AM - 5:00 PM.

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If reasonable attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for this Group is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Charles Boyer

A handwritten signature in cursive script that reads "Charles Boyer". The signature is written in black ink and is positioned to the right of the printed name "Charles Boyer".

March 31, 2003